

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) Nos. 11-CR-057-RHW-1
5 vs.) 11-CR-057-RHW-2
6 J. SCOTT VRIELING and) October 2, 2012
7 PATRICIA DIONN VRIELING,) Spokane, Washington
8 Defendants.)
9

10 BEFORE THE HONORABLE ROBERT H. WHALEY
11 SENIOR UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

13 For the Plaintiff: George J.C. Jacobs, III
14 Assistant United States Attorney
15 P.O. Box 1494
16 Spokane, WA 99210-1494

17 For the Defendant J. Scott Vrieling: J. Scott Vrieling, Pro Se
18 2437 West Shore Drive
19 Moses Lake, WA 98837

20 For the Defendant Patricia Dionn Vrieling: Patricia Dionn Vrieling, Pro Se
21 2437 West Shore Drive
22 Moses Lake, WA 98837

23 Official Court Reporter: Debra Kinney Clark, RPR, CSR
24 United States District Courthouse
25 P.O. Box 700
Spokane, WA 99210
(509) 458-3433

Proceedings reported by mechanical stenography; transcript
produced by computer-aided transcription.

WITNESS INDEX

<u>ON BEHALF OF THE PLAINTIFF:</u>	<u>PAGE</u>
------------------------------------	-------------

HEATHER BURNS:

Direct Examination by Mr. Jacobs	3
Cross-Examination by Ms. Vrieling	19

EXHIBIT INDEX

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ADMT'D</u>
1-38C	LifeWise Checks	14
1-38D	Premiera Blue Cross Checks	10
58	Commission Agreements	15

1 (The witness's picture was taken.)

2 THE COURTROOM DEPUTY: Please raise your right hand.

3 (WITNESS, HEATHER BURNS, called as a witness on behalf of the
4 plaintiff, having first been duly sworn, testified as follows:)

5 THE COURTROOM DEPUTY: Okay. Would you please have a
6 seat? Would you please state your name; and spell your first
7 and your last name for the record, please.

8 THE WITNESS: Heather Burns. H-e-a-t-h-e-r. Burns,
9 B-u-r-n-s.

10 MR. JACOBS: Your Honor, we're moving a little bit
11 faster than we thought this morning. We have to -- we're going
12 down to get the exhibits. We've got copies of the exhibits,
13 so -- but I think I can -- I can start, Your Honor.

14 THE COURT: All right. Go ahead.

15 DIRECT EXAMINATION

16 BY MR. JACOBS:

17 Q Ma'am, could you state your full name and spell your last
18 name for the benefit of the court reporter?

19 Oh, she's already -- I'm sorry. Okay. I missed that.

20 Ma'am, could you tell the members of the jury where you're
21 employed?

22 A I work for Premera Blue Cross in Mountlake Terrace,
23 Washington.

24 Q Please tell the jury how long you've been employed at
25 Premera Blue Cross.

1 A Twenty-plus years.

2 Q Ms. Burns, can you tell the jury what -- what are your
3 responsibilities at the company?

4 A I work with the producer agent, slash, broker contracting;
5 and I work in -- with the commissions on the medical side of our
6 company.

7 Q Is there a particular department you're in?

8 A It's called sales operations.

9 Q Could you tell the jury what your company does? What type
10 of business is it involved in?

11 A Premera Blue Cross sells insurance products to groups and
12 individuals for health care. Health care services.

13 Q Ms. Burns, could you tell the jury -- Premera Blue Cross --
14 are there -- does it have any affiliates; for example, LifeWise
15 or the like?

16 A Premera Blue Cross has LifeWise Health Plan, a Washington
17 brand, which sells also individual health plans in the state.
18 It has a LifeWise Assurance Company, which sells a life and
19 disability product. And then the Premera Blue Cross sells
20 medical products too for group and individual.

21 Q Ma'am, did you mention a LifeWise Assurance Company and
22 LifeWise Health?

23 A Yes, I did.

24 Q All right. And then Premera Blue Cross -- is -- is there
25 an umbrella company?

1 A Premera is the umbrella corporation that owns Premera Blue
2 Cross, LifeWise Health Plan in Washington, LifeWise Assurance
3 Company. And then we have various subsidiaries in different
4 states.

5 Q Ms. Burns, you had mentioned a few moments ago something
6 about -- I think you said a producer or a broker or something.
7 What -- could you explain those terms? Are those terms used in
8 your industry?

9 A Right. Most of you are probably aware of an insurance
10 agent and/or a broker. In the state of Washington, they're now
11 called producers. So, the term broker, agent, producer all mean
12 the same thing. It's a person that solicits insurance for a
13 carrier, gets paid a fee to do that.

14 Q Mrs. Burns, just so the jury's clear, in order for Premera
15 Blue Cross and these other affiliates that you mentioned to sell
16 their products, do they use an agent or a broker or a producer?

17 A About 80 percent of our business is sold through an
18 agent/producer relationship. The remainder is sold direct.

19 Q During the time period of 2003 to 2007, Mrs. Burns, could
20 you tell the jurors -- was Mr. Vrieling, Jon Scott Vrieling --
21 did he have a business relationship with your company?

22 A Yes. He was one of our affiliated producers, agencies, to
23 sell our products.

24 Q Could you tell the jury -- in order to be a producer or a
25 broker to sell your products during that time period, is it

1 required that the broker or agent be licensed in the state of
2 Washington?

3 A They need to be licensed in the state of Washington and be
4 contracted with each of our carriers that they represent, which
5 means that we have an internal corporate contract that each of
6 them signs.

7 Q And so did Mr. Vrieling sign a contract with your company
8 to solicit business for your company?

9 A Yes, he did.

10 Q Could you tell the members of the jury -- during the time
11 period 2003 to 2007, did Mr. Vrieling receive any compensation
12 from your company or the affiliates that you mentioned?

13 A Yes.

14 Q Could you tell the jury -- were those -- how is that
15 compensation paid?

16 A On a monthly basis. We calculate the compensation; and we
17 mail out a statement as to how it was calculated, the various
18 detail of it, with a check.

19 Q Okay. And --

20 MR. JACOBS: Just one moment. I'm going to -- Your
21 Honor, we're just waiting on a binder, which is being brought
22 anon.

23 Q (By Mr. Jacobs) Ma'am, we're about to hand you a binder.
24 But have you had an opportunity -- I'm going to be showing you
25 some checks that are in that binder. Have you had an

1 opportunity to review those checks prior to testifying today?

2 A Yes.

3 Q Could you tell the jury -- were those checks that your
4 company or one of the affiliates issued to Jon Scott Vrieling or
5 Vrieling Financial during the period 2003 to 2007?

6 A Yes.

7 Q Could you tell the jury what -- why your company issued
8 those checks?

9 A They were payment for his services for soliciting the
10 business that -- that we sold. He sold to the clients. We paid
11 him a commission to do that.

12 Q Okay. You paid a what?

13 A "Commission" is what it's called --

14 Q All right.

15 A -- in the industry.

16 MR. JACOBS: May I approach, Your Honor?

17 THE COURT: Ms. Robinson?

18 (Materials were handed to the witness.)

19 Q (By Mr. Jacobs) Ma'am, you've got in front of you what's
20 been marked for identification as Government's Exhibit 1-38D, as
21 in David. And if you look at that binder, it's a composite
22 exhibit. Could you go -- there are a series of tabs. Could you
23 go to the tab that's got Premiera Blue Cross? Go to that tab.
24 And then do you see a series of checks? Are those the checks
25 that you reviewed that Premiera Blue Cross issued to Mr. Vrieling

1 or Vrieling Financial during the period 2003 to 2007?

2 A Yes.

3 Q Okay. And the purpose of those checks -- were they
4 reimbursement, or were they compensation for services rendered?

5 A They were compensation for services, for selling the
6 business.

7 Q Okay. And those are copies of the checks. Is that
8 correct?

9 A Correct.

10 Q Okay. And, ma'am, if you could, the checks that you've got
11 in front of you from Premera Blue -- or -- payments by Premera
12 Blue Cross, are they arranged chronologically from 2003 to 2007?

13 A Yes.

14 MR. JACOBS: Your Honor, I'd move to admit those
15 checks into evidence, Your Honor.

16 DEFENDANT PATRICIA DIONN VRIELING: I would object. I
17 don't -- can I -- I don't know what to do. I do have a reason
18 for objecting.

19 THE COURT: I couldn't hear you.

20 DEFENDANT PATRICIA DIONN VRIELING: I do have a reason
21 for objecting.

22 THE COURT: All right. Well, you go ahead and state
23 it.

24 DEFENDANT PATRICIA DIONN VRIELING: Your Honor, the
25 Internal Revenue Service and Mr. Jacobs have violated the Powell

1 (phonetic) doctrine extensively over the last 15 years in our
2 lives by ransacking our -- our bank accounts, by ransacking our
3 commission statements. Every piece of information that is in
4 that book was presented in the form of a simple piece of paper
5 called a 1099 form that was sent to the Internal Revenue
6 Service, that was sent to us. The Internal Revenue Service had
7 the ability to -- to examine those documents. I'm more positive
8 that when I ask Mrs. Burns whether there's a difference in the
9 amount of checks and the amount that was shown on that 1099
10 form, there is going to be no difference.

11 So we're getting this circus of paperwork and a violation
12 of our privacy for him to prove numbers that we're not
13 disputing. There is no dispute. He's going to bring in 20
14 witnesses or something like that for -- from insurance agencies
15 that we have no dispute with. We're wasting time. We're
16 wasting the public's time. We're -- we're being violated and
17 have been raped in all of our privacies -- every bank account,
18 every relationship that we have with our business.

19 With Premera -- Premera blue Cross -- we've had an
20 extensive relationship with them. We've been on their advisory
21 councils. We have a good relationship. And these people are
22 violating that in an attempt to make a circus act for the
23 benefit of the jury that has no -- no value. They have that
24 amount. We can show you that they can run a report that shows
25 every income from every source in one piece of paper. And this

1 is ridiculous.

2 THE COURT: Were these checks one of those things that
3 you had a certification for?

4 MR. JACOBS: Yes, Your Honor.

5 THE COURT: They're admitted over objection.

6 THE COURTROOM DEPUTY: Your Honor, just to clarify,
7 which -- what exhibit is it?

8 THE COURT: 1-38D and the Premera Blue Cross checks.

9 THE COURTROOM DEPUTY: Okay. Thank you.

10 THE COURT: I'll take up the issue that you discussed
11 about agreeing to things outside the presence of the jury when
12 this witness is through.

13 Q (By Mr. Jacobs) Ms. Burns --

14 MR. JACOBS: One moment, Your Honor.

15 THE COURT: Okay.

16 Q (By Mr. Jacobs) And, ma'am, just so the jury is clear,
17 there are a series of checks, Premera Blue Cross checks, in that
18 binder that have an asterisk next to them. Is that correct?

19 A Correct.

20 Q All right. And those are the Premera Blue Cross checks
21 you're talking about. Correct?

22 A Right.

23 Q All right. If we could, just maybe as an example here, if
24 you could go -- if you look at the lower right-hand corner of
25 the document, there's a number 2 down at the bottom. Can you go

1 to that page? And there's an asterisk on the check. Do you see
2 that, ma'am?

3 MR. JACOBS: Permission to publish, Your Honor?

4 THE COURT: Yes.

5 Can the jury see something on their screen?

6 (Affirmative responses from the jury.)

7 THE COURT: Okay.

8 Q (By Mr. Jacobs) All right. Is that an example of one of
9 the checks you're talking about?

10 A Correct.

11 Q And if you could, ma'am, could you tell the jury -- what
12 was the amount of that check?

13 A \$18,093.30.

14 Q All right. And are you referring to that amount that I've
15 just circled on the monitor?

16 A Yes.

17 Q All right. And that amount relates to the check above it.
18 Is that correct, ma'am?

19 A Correct.

20 Q Okay. And then, ma'am, if you could -- do you see what
21 I've circled there on the monitor?

22 A Yes.

23 Q And I'll zoom in, if that will help.

24 A I'm okay on here.

25 Q That's a check made payable to Vrieling Financial. And

1 what is the address there, if you can read it?

2 A 110 East Broadway, Suite 1, Moses Lake.

3 Q Okay. All right. You can put that one aside.

4 Ma'am, do you have a -- in that binder, is there a tab that
5 is marked LifeWise Health Plan in 1-38D, as in David?

6 MR. JACOBS: Your Honor, may I -- I've got another
7 binder to show Ms. Burns.

8 THE COURT: Ms. Robinson?

9 THE CLERK: Do you want this binder back, or do you
10 want to --

11 MR. JACOBS: She can keep it.

12 (Materials were handed to the witness.)

13 A The second binder has a tab called LifeWise.

14 Q (By Mr. Jacobs) Okay. And is that the 1-38C, as in
15 Charlie?

16 A Yes.

17 Q And in that -- in that binder, there's a tab called
18 LifeWise. And then are there a series of checks following that
19 tab that have asterisks next to them?

20 A Yes.

21 Q Have you reviewed those checks prior to testifying today?

22 A Yes.

23 Q Do you recog -- are those -- can you tell the jury what
24 those are?

25 A There's two types of LifeWise checks in this tab. One are

1 LifeWise Health Plan of Washington.

2 Q Yes, ma'am.

3 A And some of them are LifeWise Assurance Company.

4 Q All right. And are you familiar with both sets of checks
5 or just the LifeWise Health Plan?

6 A I'm mainly familiar with LifeWise Health Plan.

7 Q All right. Have you had a --

8 A I recognize the others, but I'm not --

9 Q Okay. Regarding the LifeWise Health Plan checks, do you
10 recognize those?

11 A Yes.

12 Q And could you tell the jury why LifeWise Health Plan issued
13 those checks?

14 A They are commission checks, same as the Blue Cross, for
15 selling individual plans in the state of Washington.

16 Q And were those checks issued during the time period 2003 to
17 2007?

18 A Yes.

19 Q And could you tell the jury who those checks were issued
20 to?

21 A Vrieling Financial.

22 Q All right. All right, ma'am. You can put that --

23 MR. JACOBS: Your Honor, I'd move for the admission of
24 the LifeWise Health Plan checks that are in 1-38C at this -- at
25 this time.

1 THE COURT: Same objection you made earlier?

2 DEFENDANT PATRICIA DIONN VRIELING: Same objection,
3 Your Honor.

4 THE COURT: Okay. It's overruled. It will be
5 admitted.

6 Q (By Mr. Jacobs) All right, ma'am. You can put that -- and
7 could you tell the jury -- were those checks issued on a monthly
8 basis?

9 THE COURT: Mr. Jacobs, are all these exhibits ones
10 that were handled in the certification process earlier?

11 MR. JACOBS: Yes, they were, Your Honor.

12 THE COURT: All right. It's admitted.

13 Q (By Mr. Jacobs) Ms. Burns, were those checks issued on a
14 monthly basis?

15 A Most of these checks are monthly commission checks. There
16 are some in here that are issued quarterly as bonus payments in
17 addition to commission. So they are issued quarterly.

18 Q Okay.

19 MR. JACOBS: Your Honor, Government's Exhibit 58 --
20 may I approach, Your Honor?

21 (Materials were handed to the witness.)

22 Q (By Mr. Jacobs) Ma'am, have you had an opportunity to
23 review Government's 58 prior to testifying today?

24 A Yes.

25 Q And that's a --

1 MR. JACOBS: Your Honor, I would move --

2 Q (By Mr. Jacobs) Is that a document between your company
3 and Vrieling Financial?

4 A There's actually three in here. But they are from
5 different -- under the umbrella between --

6 Q I'll rephrase the question.

7 Are those commission agreements between the companies that
8 you're affiliated with or work for and Vrieling Financial?

9 A Yes.

10 Q Okay.

11 MR. JACOBS: Your Honor, I would move for the
12 admission of those commission agreements, Government's
13 Exhibit 58.

14 DEFENDANT PATRICIA DIONN VRIELING: We disagree with
15 this whole process, Your Honor. Object.

16 THE COURT: You disagree with the whole process?

17 DEFENDANT PATRICIA DIONN VRIELING: Uh-huh.

18 THE COURT: Okay. They're admitted.

19 MR. JACOBS: Permission to publish, Your Honor?

20 THE COURT: All right.

21 Q (By Mr. Jacobs) Just -- we'll take a look at the first
22 page of 58. Ma'am, that's between HealthPlus and Vrieling
23 Financial. Is that correct?

24 A Correct.

25 Q And under the terms of that agreement, Mr. Vrieling agrees

1 to do business as an independent contractor. Is that correct?

2 A Correct.

3 Q Could you tell the difference -- what is an independent
4 contractor versus an employee? Do you know?

5 A An independent contractor is paid for services that he
6 provides us, it's not guaranteed employment, and it's generally
7 a 1099 situation and not a W-2 situation.

8 Q Okay. And, ma'am, if you could, looking at the last page
9 of that agreement, is there a signature on behalf of the -- of
10 the agent?

11 A Yes. J. Scott Vrieling signed it as owner agent.

12 Q Okay. And then going to the next document in there, that's
13 a commission agreement between Blue Cross of Washington and
14 Alaska and Vrieling Financial. Is that correct?

15 A Correct.

16 Q And turning to the last page of that document, did
17 Mr. Vrieling sign that as well on behalf of -- as owner agent?

18 A Correct.

19 Q And then the next document is an agency agreement between
20 Blue Cross -- is that correct?

21 A Correct.

22 Q And Mr. Vrieling?

23 A Yes.

24 Q And if you could, it's -- at least on the copy that I've
25 got, it's hard to see. But there's a vendor number. Up in the

1 upper right-hand corner, it says vendor number 5436. Is that
2 the vendor number for Vrieling Financial?

3 A Yes, it is.

4 Q Okay.

5 MR. JACOBS: One moment, Your Honor. And, Your Honor,
6 if I didn't, I do move for the admission of government's 58 into
7 evidence.

8 THE COURTROOM DEPUTY: You already did.

9 MR. JACOBS: I did move? Okay. Thank you.

10 THE COURT: It's been admitted.

11 Q (By Mr. Jacobs) And, ma'am, just -- I want to clarify
12 one -- one thing. In the -- the checks that I've shown you
13 earlier, there were -- there was a check for \$81 -- two checks
14 for \$81. Is that correct?

15 A Correct.

16 Q And \$89.10?

17 A Correct.

18 Q And then there was a check for \$250 and one for \$177.54.
19 Is that correct?

20 A Correct.

21 Q There was a check for \$97.90 that Premera Blue Cross issued
22 to Mr. Vrieling?

23 A Correct.

24 Q And with just the exception of those checks that I just
25 mentioned -- do you have the check numbers?

1 A Yeah.

2 Q Okay. Could you give the check numbers? Read those into
3 the record, please.

4 A The \$81 is 15333. Another \$81 was 21148. \$89.10 is 45391.
5 \$250 is 59457. \$177.54 is 79007. And \$97 is 83110.

6 Q All right. With the exception of those checks, all those
7 other commission checks were commission payments. Is that
8 correct?

9 A Correct.

10 Q All right. And if you could -- Premera Blue Cross -- the
11 commission checks -- there's -- is it designated by a 2 or a
12 number 5 or something -- the check? Could you explain that for
13 the jury?

14 A Some of them are recent checks. The check numbering series
15 starts with a 2 if it's Blue Cross and an 8 if it's LifeWise
16 Health Plan of Washington.

17 Q All right. And how about a 5?

18 THE COURT REPORTER: Just a minute. Would you repeat
19 your answer?

20 THE WITNESS: In the more recent checks, they start --
21 the check numbering series starts with a 2 for Premera Blue
22 Cross; and it starts with an 8 for LifeWise Health Plan of
23 Washington.

24 Q (By Mr. Jacobs) And then how about the number 5, if a
25 check starts with a number 5?

1 A The 5 series, which is the older checks, were issued
2 through our -- we've changed operating systems. So the 5 were
3 issued out of our -- the different operating system. That would
4 indicate it was a commission payment.

5 Q Yes, ma'am. And if you could, ma'am, in order for Premera
6 Blue Cross and these other companies that you mentioned a few
7 moments ago -- in order for those companies, during the time
8 period 2003 to 2007, to issue commission checks to Mr. Vrieling,
9 did the company require Mr. Vrieling to provide a Social
10 Security number or a taxpayer identification number or something
11 like that?

12 A Yes. We don't do business with anyone that doesn't provide
13 one or the other. So yes. It's required.

14 Q All right. And if Mr. Vrieling had not provided that
15 information to your company, would he have been paid
16 commissions?

17 A No. He wouldn't have been contracted by us to do business
18 with us, or paid.

19 MR. JACOBS: No further questions of Ms. Burns, Your
20 Honor.

21 THE COURT: Do you have any questions?

22 CROSS-EXAMINATION

23 BY MS. VRIELING:

24 Q Heather, thank you for being here. I'm sorry for all of
25 your troubles.

1 My question to you today is: For all of those troubles,
2 did we come to any new conclusions? Was there anything
3 different from the 1099s that you sent to us in the past?
4 Was -- were there different amounts. Or was everything the
5 same?

6 A I believe it all balanced.

7 Q Yeah.

8 DEFENDANT PATRICIA DIONN VRIELING: So, Your Honor,
9 Premiera Blue Cross has issued 1099 forms every year to us and to
10 the -- and to the Internal Revenue Service. And those are in
11 the Internal Revenue Service's files. We can -- we've done
12 Freedom of Information Acts.

13 THE COURT: Just a minute. That's not what she
14 testified about. She just testified about these checks. We can
15 get into that when the jury has left if you want to.

16 DEFENDANT PATRICIA DIONN VRIELING: It seems really
17 relevant to the whole case.

18 THE COURT: Well, it's not a question.

19 DEFENDANT PATRICIA DIONN VRIELING: All right.

20 THE COURT: It's just a -- it's a statement to me.

21 And --

22 DEFENDANT PATRICIA DIONN VRIELING: All right. So I
23 would -- I would rest on the fact that she is giving the same
24 amounts as have already been put into the file.

25 THE COURT: All right. Thank you.

1 Anything else?

2 MR. JACOBS: No, Your Honor.

3 THE COURT: Okay. You're excused.

4 (End of requested proceedings.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, DEBRA KINNEY CLARK, do hereby certify:

That I am an Official Court Reporter for the United States District Court at the Eastern District of Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 4th day of October, 2012.

/s/Debra Kinney Clark

Official Court Reporter
United States District Court
Eastern District of Washington